

DEPARTMENT OF TAXATION 2021 Fiscal Impact Statement

1. **Patron** Stephen E. Heretick

3. **Committee** House Finance

4. **Title** Tax exemptions for energy storage systems

2. **Bill Number** HB 2006

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide that energy storage systems and the components purchased for use in such systems are exempt from the retail sales and use tax. The bill would authorize localities to adopt revenue share ordinances on such projects of up to \$1,400 per megawatt.

This bill would also provide that energy storage systems are a separate class of property and shall constitute classification for local taxation separate from other such classification of real or personal property. Energy storage systems would be exempt from state and local taxation pursuant to Article X, Section 6(d) of the Constitution of Virginia. The exemption for projects greater than five megawatts but less than 150 megawatts, and for projects greater than five megawatts where the locality has not adopted a revenue share ordinance, would be 80 percent of the assessed value in the first five years of service, 70 percent in years six through ten, and 60 percent thereafter. No exemption would be available to projects greater than five megawatts that have not filed an application with the locality before July 1, 2030.

The exemption for projects greater than five megawatts would be 100 percent if a locality adopts a revenue share ordinance.

Under current law, energy storage systems are subject to the retail sales and use tax as well as local property taxation. Localities are currently authorized to impose revenue share agreements on solar photovoltaic projects but not on energy storage systems.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary (See Line 8.)

8. Fiscal implications:

Administrative Costs

This bill may have a negative impact on administrative costs in localities in which energy storage systems are located. The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill could have an unknown impact on the revenues of affected localities. While localities may experience a decrease in sales and local property tax revenues as a result of the exemption proposed by this bill, these localities may also recoup some or all of that decrease from the imposition of revenue shares authorized by this bill.

This bill could have an unknown but potentially significant negative impact on state revenues due to the elimination of sales tax on energy storage systems beginning in Fiscal Year 2022.

9. Specific agency or political subdivisions affected:

Department of Taxation

Localities in which eligible energy storage systems are located

10. Technical amendment necessary: No.

11. Other comments:

Local Property Tax Exemptions for Solar Equipment

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (d) provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing air or water pollution or for the purpose of transferring or storing solar energy and by general law may allow the governing body of any locality to exempt such property from taxation, or by general law may directly exempt such property from taxation.

Commercial Solar Equipment and Local Revenue Shares

Localities may, by ordinance, assess a revenue share of up to \$1,400 per megawatt of generation capacity on a solar photovoltaic project and require the owner of the project to provide the locality with data reflecting the annual megawatt hours generated by the project by March 30 of each calendar year. Localities are prohibited from assessing revenue shares upon certain customer-generators, small agricultural generators, solar projects that are 5 megawatts or less, or projects that are 20 megawatts or less for which an interconnection request form has been filed on or before December 31, 2018.

If a locality adopts a revenue share ordinance, the certified pollution control exemption for that solar project is 100 percent. For solar projects greater than 5 megawatts that are not eligible for the 100 percent exemption, an 80 percent exemption is available so long as application is made before July 1, 2030. No revenue share is permitted to be established for projects for which an application was filed prior to July 1, 2020 unless the owner and locality agree to waive a portion of the pollution control exemption that applies to the project and return the exemption to the locality or the owner and locality agree to enter into a new payment agreement.

Proposal

This bill would provide that energy storage systems and the components purchased for use in such systems are exempt from the retail sales and use tax. The bill would authorize localities to adopt revenue share ordinances on such projects of up to \$1,400 per megawatt.

This bill would also provide that energy storage systems are a separate class of property and shall constitute classification for local taxation separate from other such classification of real or personal property. Energy storage systems would be exempt from state and local taxation pursuant to Article X, Section 6(d) of the Constitution of Virginia. The exemption for projects greater than five megawatts but less than 150 megawatts, and for projects greater than five megawatts where the locality has not adopted a revenue share ordinance, would be 80 percent of the assessed value in the first five years of service, 70 percent in years six through ten, and 60 percent thereafter. No exemption would be available to projects greater than five megawatts that have not filed an application with the locality before July 1, 2030.

The exemption for projects greater than five megawatts would be 100 percent if a locality adopts a revenue share ordinance.

Energy storage systems would be defined as equipment, facilities, or devices that are capable of absorbing energy, storing it for a period of time, and redelivering that energy after it has been stored. Energy storage systems would not include the land on which such equipment, facilities, or devise are located.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

Similar Legislation

House Bill 2269 would provide that the maximum amount of the revenue share that may be imposed by a locality on certain solar energy products shall be adjusted every five years by the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) exceeds the CPI-U on December 31, 2020. The bill would give the locality the discretion to substitute the Marshall and Swift Building Cost Index instead of the CPI-U.

Senate Bill 1201 would amend the definition of electric supplier to include certain battery storage facilities with a storage capacity greater than 25 megawatts and would subject such facilities to central assessment by the State Corporation Commission.

Senate Bill 1380 This bill would include electric school buses and associated charging and other infrastructure, solar photovoltaic or otherwise, related or incidental to an electric school bus project within the exemption for certified pollution control equipment and facilities. These buses and associated infrastructure would therefore be deemed a separate class of property and exempt from state and local taxation.

cc : Secretary of Finance

Date: 1/20/2021 VB
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